

HOUSE BILL NO. 1012

Introduced by

Appropriations Committee

1 A BILL for an Act to provide an appropriation for defraying the expenses of the department of
 2 human services; ~~and to authorize the department of human services to convey land in Walsh~~
 3 ~~County; to amend and reenact section 50-24.1-37 of the North Dakota Century Code, relating to~~
 4 ~~Medicaid expansion; to repeal section 50-24.1-37 of the North Dakota Century Code, relating to~~
 5 ~~the Medicaid expansion program; to provide for exemptions; to provide statements of legislative~~
 6 ~~intent; to provide a report to the legislative management; to provide for a legislative~~
 7 ~~management study; to provide appropriations; to provide an expiration date; to provide a~~
 8 ~~contingent effective date; and to declare an emergency.~~

9 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

10 **SECTION 1. APPROPRIATION.** The funds provided in this section, or so much of the
 11 funds as may be necessary, are appropriated out of any moneys in the general fund in the state
 12 treasury, not otherwise appropriated, and from special funds derived from federal funds and
 13 other income, to the department of human services for the purpose of defraying the expenses
 14 of its various divisions, for the biennium beginning July 1, 2017, and ending June 30, 2019, as
 15 follows:

16 Subdivision 1.

	MANAGEMENT		
		Adjustments or	
	<u>Base Level</u>	<u>Enhancements</u>	<u>Appropriation</u>
20 Salaries and wages	\$28,049,386	\$0	\$28,049,386
21 Operating expenses	87,542,966	0	87,542,966
22 Capital assets	26,000	0	26,000
23 Grants	0	0	0
24 Total all funds	\$115,618,352	\$0	\$115,618,352

Sixty-fifth
Legislative Assembly

1	Less estimated income	71,375,084	0	71,375,084
2	Total general fund	\$44,243,268	\$0	\$44,243,268
3	Salaries and wages	\$28,049,386	(\$4,612,071)	\$23,437,315
4	Operating expenses	87,542,966	71,922,860	159,465,826
5	Capital assets	26,000	(26,000)	0
6	Grants	0	204,000	204,000
7	Total all funds	\$115,618,352	\$67,488,789	\$183,107,141
8	Less estimated income	71,324,758	56,767,760	128,092,518
9	Total general fund	\$44,293,594	\$10,721,029	\$55,014,623

10 Subdivision 2.

PROGRAM AND POLICY

11			Adjustments or	
12		Base Level	Enhancements	Appropriation
13	Salaries and wages	\$58,102,898	\$0	\$58,102,898
14	Operating expenses	107,383,843	0	107,383,843
15	Capital assets	0	0	0
16	Grants	457,953,280	0	457,953,280
17	Grants - medical assistance	2,384,560,568	0	2,384,560,568
18	Total all funds	\$3,008,000,589	\$0	\$3,008,000,589
19	Less estimated income	1,995,017,976	0	1,995,017,976
20	Total general fund	\$1,012,982,613	\$0	\$1,012,982,613
21	Salaries and wages	\$58,102,898	\$2,884,535	\$60,987,433
22	Operating expenses	107,383,843	17,207,206	124,591,049
23	Capital assets	0	10,000	10,000
24	Grants	457,953,280	5,921,488	463,874,768
25	Grants - medical assistance	2,384,560,568	(30,582,216)	2,353,978,352
26	Total all funds	\$3,008,000,589	(\$4,558,987)	\$3,003,441,602
27	Less estimated income	1,995,024,801	(90,849,740)	1,904,175,061
28	Total general fund	\$1,012,975,788	\$86,290,753	\$1,099,266,541

29 Subdivision 3.

FIELD SERVICES

30

	Base Level	Adjustments or Enhancements	Appropriation
1			
2			
3	Human service centers	\$197,619,611	\$0
4	Institutions	140,856,330	0
5	Total all funds	\$338,475,941	\$0
6	Less estimated income	132,776,801	0
7	Total general fund	\$205,699,140	\$0
8	Human service centers	(\$3,083,589)	\$195,804,854
9	Institutions	258,930	139,846,428
10	Total all funds	(\$2,824,659)	\$335,651,282
11	Less estimated income	5,301,710	138,122,012
12	Total general fund	(\$8,126,369)	\$197,529,270

Subdivision 4.

BILL TOTAL

	Base Level	Adjustments or Enhancements	Appropriation
15			
16			
17	Grand total general fund	\$1,262,925,021	\$0
18	Grand total special funds	2,199,169,861	0
19	Grand total all funds	\$3,462,094,882	\$0
20	Full-time equivalent positions	0.00	2,211.08
21	Grand total general fund	\$88,885,413	\$1,351,810,434
22	Grand total special funds	(28,780,270)	2,170,389,591
23	Grand total all funds	\$60,105,143	\$3,522,200,025
24	Full-time equivalent positions	(74.85)	2,136.23

SECTION 2. HEALTH INSURANCE INCREASE. The appropriation in section 1 of this Act includes the sum of \$6,376,445, of which \$5,350,004 is from the general fund, for increases in employee health insurance premiums from \$1,130 to \$1,249 per month.

SECTION 3. ONE-TIME FUNDING - EFFECT ON BASE BUDGET - REPORT TO SIXTY-SIXTH LEGISLATIVE ASSEMBLY. The following amounts reflect the one-time funding items approved by the sixty-fourth legislative assembly as adjusted for the 2015-17 biennium and the 2017-19 biennium one-time funding items included in the appropriations in section 1 of this Act:

Sixty-fifth
Legislative Assembly

1	<u>One-Time Funding Description</u>	<u>2015-17</u>	<u>2017-19</u>
2	Developmental disabilities equipment	\$10,000	\$0
3	Heating plant repairs and upgrades - state hospital	1,156,000	0
4	Heating plant repairs and upgrades - life skills and	75,000	0
5	transition center		
6	Window replacement - life skills and transition center	44,000	0
7	Equipment over \$5,000 - state hospital	275,000	0
8	Equipment over \$5,000 - life skills and transition center	200,000	0
9	Extraordinary repairs - state hospital	1,000,000	0
10	Extraordinary repairs - life skills and transition center	1,250,000	0
11	Assistive technology services	80,000	0
12	Modification of eligibility systems	60,872,269	0
13	Total all funds	\$64,962,269	\$0
14	Less estimated income	46,870,102	0
15	Total general fund	\$18,092,167	\$0
16	<u>Modification of eligibility systems</u>	<u>60,872,269</u>	<u>0</u>
17	<u>Child care licensing and data system</u>	<u>0</u>	<u>3,000,000</u>
18	<u>Health information network/care coordination</u>	<u>0</u>	<u>40,800,000</u>
19	<u>Total all funds</u>	<u>\$64,962,269</u>	<u>\$43,800,000</u>
20	<u>Less estimated income</u>	<u>46,870,102</u>	<u>43,800,000</u>
21	<u>Total general fund</u>	<u>\$18,092,167</u>	<u>\$0</u>

22 The 2017-19 biennium one-time funding amounts are not a part of the entity's base budget for
 23 the 2019-21 biennium. The department of human services shall report to the appropriations
 24 committees of the sixty-sixth legislative assembly on the use of this one-time funding for the
 25 biennium beginning July 1, 2017, and ending June 30, 2019.

26 **SECTION 4. FUNDING TRANSFERS - EXCEPTION - AUTHORIZATION.** Notwithstanding
 27 section 54-16-04, the department of human services may transfer appropriation authority
 28 between line items within subdivisions 1, 2, and 3 of section 1 of this Act for the biennium
 29 beginning July 1, 2017, and ending June 30, 2019. The department of human services shall
 30 notify the office of management and budget and the legislative council of any transfer made
 31 pursuant to this section. The department shall report to the budget section after June 30, 2018,

1 any transfer made in excess of \$50,000 and to the appropriations committees of the sixty-sixth
2 legislative assembly regarding any transfers made pursuant to this section.

3 **SECTION 5. EXEMPTION.** The amount appropriated for the replacement of the Medicaid
4 management information system and related projects in chapter 50 of the 2007 Session Laws
5 and chapter 38 of the 2011 Session Laws is not subject to the provisions of section 54-44.1-11.
6 Any unexpended funds from these appropriations approved under section 54-44.1-11 for
7 continuation into the 2009-11 biennium and then the 2011-13 biennium and then the 2013-15
8 biennium and then the 2015-17 biennium are available for the completion of the Medicaid
9 management information system and related projects during the biennium beginning July 1,
10 2017, and ending June 30, 2019.

11 **SECTION 6. EXEMPTION.** The amount appropriated for the modification of the department
12 of human services' eligibility systems in chapter 578 of the 2011 Special Session Session Laws
13 is not subject to the provisions of section 54-44.1-11. Any unexpended funds from this
14 appropriation approved under section 54-44.1-11 for continuation into the 2013-15 biennium
15 and then the 2015-17 biennium are available for the completion of the modification of the
16 eligibility systems project during the biennium beginning July 1, 2017, and ending June 30,
17 2019.

18 **SECTION 7. EXEMPTION.** The amount appropriated for the development of the electronic
19 health records system in chapter 12 of the 2013 Session Laws is not subject to the provisions of
20 section 54-44.1-11. Any unexpended funds from this appropriation approved under section
21 54-44.1-11 for continuation into the 2015-17 biennium are available for the completion of the
22 electronic health records system during the biennium beginning July 1, 2017, and ending
23 June 30, 2019.

24 **SECTION 8. ESTIMATED INCOME.** Of funds appropriated in section 1 of this Act,
25 \$16,000,000 is from the tobacco prevention and control trust fund for the purpose of defraying
26 expenses in the medical services division, for the biennium beginning July 1, 2017, and ending
27 June 30, 2019.

28 **SECTION 9. ESTIMATED INCOME.** Of funds appropriated in section 1 of this Act,
29 \$686,191 is from the health care trust fund for the purpose of defraying expenses of long-term
30 care services programs, for the biennium beginning July 1, 2017, and ending June 30, 2019.

1 **SECTION 10. APPROPRIATION - 2015-17 BIENNIUM.** There is appropriated out of special
2 funds derived from federal funds, not otherwise appropriated, the sum of \$9,000,000, or so
3 much of the sum as may be necessary, to the department of human services for the purpose of
4 defraying medical assistance grant costs, for the period beginning with the effective date of this
5 Act and ending June 30, 2017.

6 **SECTION 11. APPROPRIATION - 2015-17 BIENNIUM - REBASING AND OPERATING**
7 **MARGINS.** There is appropriated out of any moneys in the general fund in the state treasury,
8 not otherwise appropriated, the sum of \$329,636, or so much of the sum as may be necessary,
9 and from special funds derived from federal funds and other income, the sum of \$329,636, or so
10 much of the sum as may be necessary, to the department of human services for the purpose of
11 adjusting long-term care facility rates relating to rebasing and operating margins, for the period
12 beginning June 1, 2017, and ending June 30, 2017.

13 **SECTION 12. LEGISLATIVE INTENT - POLICY CHANGES AND CLARIFICATION**
14 **RELATED TO HOME HEALTH.** It is the intent of the sixty-fifth legislative assembly that the
15 department of human services adopt rules in accordance with the Medicaid program, face-
16 to-face requirements for home health services; policy changes and clarifications related to
17 home health final rule published by the centers for Medicare and Medicaid services on
18 February 2, 2016; title 42, Code of Federal Regulations, part 440. It is further the intent of the
19 legislative assembly that the department require certified home health agencies to ensure a
20 face-to-face visit occurred between a physician and Medicaid beneficiary before initiating home
21 health services, and to ensure a face-to-face visit between a physician or nonphysician provider
22 occurred before providing medical equipment, supplies, and appliances. It is further the intent of
23 the legislative assembly that the department adopt rules to define medical equipment, supplies,
24 and appliances and specify allowable time frames for the face-to-face visits.

25 **SECTION 13. LEGISLATIVE INTENT - TRAUMATIC BRAIN INJURY - 1915(i) STATE**
26 **PLAN AMENDMENT.** It is the intent of the sixty-fifth legislative assembly that the department of
27 human services apply for a 1915(i) state plan amendment for traumatic brain injury services.
28 The department may utilize an existing 0.5 full-time equivalent position and funding available in
29 the department's budget for this purpose.

30 **SECTION 14. LEGISLATIVE INTENT - GRAFTON JOB SERVICE NORTH DAKOTA**
31 **BUILDING PURCHASE.** It is the intent of the sixty-fifth legislative assembly that the department

1 of human services purchase the Grafton job service North Dakota building using donated funds
2 for the use of the life skills and transition center, but only if anticipated revenues generated from
3 use of the building will be sufficient to provide for the operating and maintenance costs of the
4 building.

5 **SECTION 15. CONVEYANCE OF LAND AUTHORIZED - LIFE SKILLS AND TRANSITION**
6 **CENTER.** The state of North Dakota by and through the department of human services may
7 convey real property containing 3.46 acres, more or less, associated with the life skills and
8 transition center in Grafton. The department may convey a parcel of land described as follows:
9 the north fifty-eight feet of said north half of the southeast quarter of section twenty-five less the
10 railroad right-of-way and the south forty feet of the north ninety-eight feet of the west one
11 hundred twenty-three feet of said north half of the southeast quarter of section twenty-five less
12 the railroad right-of-way on the terms and conditions determined appropriate by the department
13 and the attorney general. Section 54-01-05.2 and 54-01-05.5 do not apply to this conveyance.

14 **SECTION 16. LEGISLATIVE INTENT - DEVELOPMENTAL DISABILITIES CASE**
15 **MANAGEMENT.** It is the intent of the sixty-fifth legislative assembly that the department of
16 human services provide case management services for individuals with a developmental
17 disability within the ratio provided pursuant to North Dakota Administrative Code for the
18 biennium beginning July 1, 2017, and ending June 30, 2019. If case management services for
19 individuals with a developmental disability exceed the ratio requirement provided in the North
20 Dakota Administrative Code, the department may hire temporary staff or the department may
21 propose a change to North Dakota Administrative Code to meet the ratio requirement.

22 **SECTION 17. LEGISLATIVE INTENT - DEVELOPMENTAL DISABILITIES -**
23 **PROGRAMMATIC AND ADMINISTRATIVE REQUIREMENTS.** It is the intent of the sixty-fifth
24 legislative assembly that the department of human services report all new programmatic and
25 administrative requirements to the centers for Medicare and Medicaid services and seek
26 waivers of the same unless the director finds immediate full compliance necessary for
27 individuals with disabilities.

28 **SECTION 18. LEGISLATIVE INTENT - DEVELOPMENTAL DISABILITIES - CONFLICT-**
29 **FREE CASE MANAGEMENT.** It is the intent of the sixty-fifth legislative assembly that the
30 department of human services request waivers or delays of implementation of conflict-free case
31 management rules and requirements for individuals with a developmental disability.

1 **SECTION 19. LEGISLATIVE MANAGEMENT STUDY - STATE MEDICAL ASSISTANCE**
2 **PROGRAMS.**

- 3 1. During the 2017-18 interim, the legislative management shall consider studying
4 options to operate the state medical assistance program and other related programs,
5 as managed care. The study must:
- 6 a. Identify and review populations to consider for managed care, including
7 individuals eligible under traditional medical assistance, Medicaid expansion, the
8 children's health insurance program, and individuals receiving services through
9 the long-term care and developmental disabilities programs.
 - 10 b. Consider the needs of individuals receiving services from managed care
11 programs in similar-sized states, and the alignment of benefit packages.
 - 12 c. Review populations covered by the program of all-inclusive care for the elderly in
13 other states.
 - 14 d. Consider options for including services under a managed care arrangement.
 - 15 e. Consider developing a proposed plan, cost estimates, and potential timeline for
16 implementing the managed care options identified.
 - 17 f. Consider preparing and distributing a request for information from managed care
18 organizations regarding the managed care options identified.
- 19 2. The legislative management shall report its findings and recommendations, together
20 with any legislation necessary to implement the recommendations, to the sixty-sixth
21 legislative assembly.

22 **SECTION 20. AMENDMENT.** Section 50-24.1-37 of the North Dakota Century Code is
23 amended and reenacted as follows:

24 **50-24.1-37. (Effective January 1, 2014, through July 31, ~~2017~~2019) Medicaid**
25 **expansion - Legislative management report.**

- 26 1. The department of human services shall expand medical assistance coverage as
27 authorized by the federal Patient Protection and Affordable Care Act [Pub. L. 111-148],
28 as amended by the Health Care and Education Reconciliation Act of 2010 [Pub.
29 L. 111-152] to individuals under sixty-five years of age with income below one hundred
30 thirty-eight percent of the federal poverty level, based on modified adjusted gross
31 income.

1 2. The department of human services shall inform new enrollees in the medical
2 assistance program that benefits may be reduced or eliminated if federal participation
3 decreases or is eliminated.

4 3. Effective January 1, 2018, medical assistance expansion program applicants and
5 recipients who are at least nineteen but less than twenty-one years of age must
6 receive coverage through traditional medical assistance.

7 4. The department shall implement the expansion by bidding through private carriers or
8 utilizing the health insurance exchange.

9 5. The contract between the department and the private carrier must:

- 10 a. Provide a reimbursement methodology for all medications and dispensing fees
11 which identifies the minimum amount paid to pharmacy providers for each
12 medication. The reimbursement methodology, at a minimum, must:
- 13 (1) Be available on the department's website; and
14 (2) Encompass all types of pharmacy providers regardless of whether the
15 pharmacy benefits are being paid through the private carrier or contractor or
16 subcontractor of the private carrier under this section.
- 17 b. Provide full transparency of all costs and all rebates in aggregate.
18 c. Allow an individual to obtain medication from a pharmacy that provides mail order
19 service; however, the contract may not require mail order to be the sole method
20 of service.
21 d. Ensure that pharmacy services obtained in jurisdictions other than this state and
22 its three contiguous states are subject to prior authorization and reporting to the
23 department for eligibility verification.
24 e. Ensure the payments to pharmacy providers do not include a required payback
25 amount to the private carrier or one of the private carrier's contractors or
26 subcontractors which is not representative of the amounts allowed under the
27 reimbursement methodology provided in subdivision a.

28 ~~f. Any~~

29 6. The contract between the department and the private carrier must provide the
30 department with full access to provider reimbursement rates. The department shall
31 consider provider reimbursement rate information in selecting a private carrier under

1 this section. Before August first of each even-numbered year, the department shall
2 submit a report to the legislative management regarding provider reimbursement rates
3 under the medical assistance expansion program. This report may provide cumulative
4 data and trend data but may not disclose identifiable provider reimbursement rates.

5 7. Provider reimbursement rate information received by the department under this
6 section and any information provided to the department of human services or any
7 audit firm by a pharmacy benefit manager under this section is confidential ~~under~~
8 ~~section 44-04-17.1~~, except the department may use the reimbursement rate
9 information to prepare the report to the legislative management as required under this
10 section.

11 **SECTION 21. REPEAL.** Section 50-24.1-37 of the North Dakota Century Code is repealed.

12 **SECTION 22. CONTINGENT EFFECTIVE DATE.** Section 21 of this Act becomes effective
13 if the executive director of the department of human services certifies to the secretary of state
14 and the legislative council the federal government ended the medical assistance expansion
15 program.

16 **SECTION 23. EMERGENCY.** Sections 10, 11, and 15 of this Act are declared to be an
17 emergency measure.